



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,639	09/21/2001	Scott M. Hyde	04844/00010	5215

22910 7590 12/24/2002

BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON, MA 02109

EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
----------	--------------

3611

DATE MAILED: 12/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

960639

Applicant(s)

Hyde et al.

Examiner

Silbermann

Group Art Unit

3611

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P r i d f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disp sition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Applicati n Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, all the elements of the claims must be shown and labeled or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bigelow et al. US #4,175,306.

4. Bigelow et al. disclose a clip including face member 22 with a convex bend at a first end pivotably connected to base 23 having a concave bend at a first end and biasing member (coil spring) 43 urging the first ends together. The surfaces of the first ends are knurled, as shown in Figure 1. The base and face are each a single piece.

Art Unit: 3611

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow et al.

7. Bigelow et al. do not teach smooth surfaces, however, this is considered to be an equivalent alternative. It would have been obvious to a person having ordinary skill in the art to utilize smooth surfaces instead of knurled if it is desired to grip something very fragile.

8. Bigelow et al. do not teach using metal, however, this is old and well known in the art. The examiner takes official notice of badges issued for employees which include metal clips. It would have been obvious to one of ordinary skill to utilize any well known metal to form the clip since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

9. Bigelow et al. also do not teach a leaf spring, however, this is also seen as an equivalent alternative to a coil spring. It would have been obvious to one of ordinary skill to choose the appropriate clip for an application since leaf and coil springs are both well known and it appears that either would perform equally well.

Art Unit: 3611

10. Claims 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow et al. in view of Ohlson, US #6,301,751.

11. Bigelow et al., as described above, also teach extensions defining openings on each of the base and face members (Figure 2, holes 46 and 47). Bigelow et al. do not teach a circular hole at the second end of the base member, however, this is well known in the art. Ohlson teaches a clip including a hole at the second end of the base member 2b (Figure 1). It would have been obvious to one of ordinary skill to utilize such a hole to provide means for attaching display 3, as is taught by Ohlson.

12. The face and base members are attached by rivet 2c.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow et al. in view of Dymott et al. US #5,855,046.

14. Bigelow et al. do not teach covering the convex and concave ends, however, this is well known in the art. Dymott et al. teach a clip having gripping portions covered with covering 6. It would have been obvious to one of ordinary skill to utilize such a covering so as not to damage the article being gripped, as is taught by Dymott et al.

Conclusion


15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents 4741074, 1844774, 5079808 and 5564166 are cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tu-Th 5:30-2:00.

Art Unit: 3611

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Joanne Silberman
Primary Examiner
Art Unit 3611

js
December 18, 2002